

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

RECEIVED

JUL 15 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Implementation of the)
Pay Telephone Reclassification)
and Compensation Provisions)
of the Telecommunications Act of 1996)

CC Docket No. 96-128

DOCKET FILE COPY ORIGINAL

GTE's REPLY COMMENTS

GTE Service Corporation and its affiliated
domestic telephone operating and long
distance companies

Richard McKenna, HQE03J36
GTE Service Corporation
P.O. Box 152092
Irving, TX 75015-2092
(214) 718-6362

Gail L. Polivy
1850 M Street, N.W.
Suite 1200
Washington, DC 20036
(202) 463-5214

July 15, 1996

Their Attorneys

No. of Copies rec'd
List A B C D E

110

TABLE OF CONTENTS

	<u>PAGE</u>
SUMMARY	ii
I. THE COMMISSION SHOULD ADOPT A FAIR AND BALANCED COMPENSATION PLAN BASED ON COMPETITIVE MARKET CONSIDERATIONS.....	1
1. GTE supports the RBOC proposal that the FCC should employ market proxies to establish compensation levels for all toll calls, and the market should determine the rate at which payphone providers will be compensated for calls from their payphones.....	1
2. Regulation of local coin rates should be eliminated -- if necessary, after a transition period that should not exceed two years.....	5
II. COMPENSATION SHOULD BE PAID BY THE CARRIER THAT PROCESSES THE COMPLETED CALL	6
1. Compensation should apply only to completed calls.....	6
2. The obligation to compensate payphone owners should fall on the carrier at whose call-processing platform the call is handled	7
III. THE BURDEN OF TRACKING AND ADMINISTERING PAYPHONE COMPENSATION SHOULD NOT FALL DISPROPORTIONATELY ON EXCHANGE CARRIERS.....	7
IV. PAYPHONE INVESTMENT SHOULD BE REMOVED FROM ACCESS ELEMENTS AND SHOULD RESULT IN AN EXOGENOUS ADJUSMENT TO THE COMMON LINE PCI; REGULATED PAYPHONE SERVICE SHOULD BE TARIFFED AT THE STATE LEVEL	8
1. Only paystation investment should be removed from regulation; and no "interest rate" should be applied to asset transfers	8
2. Regulated payphone service should be tarified only at the state level.....	9
3. Under the existing exogenous rules, removal of payphone investment from common line should result in adjustment to the common line PCI.....	9

SUMMARY

1. GTE urges the Commission to adopt a market-based approach to setting compensation levels for all payphone calls rather than attempting to set compensation levels based on some measure of industry-wide cost. Over time, rates set by competition are more likely to resemble the true costs of providing payphone services than those established by regulatory fiat. The market-based approach proposed by the RBOC Coalition is consistent with the deregulatory and pro-competitive objectives of the *1996 Act* and should be adopted by the Commission.

2. Regulation of local coin rates should be eliminated -- if necessary, after a transition period that should not exceed two years

3. Compensation must apply only to completed calls.

4. Responsibility for identifying and tracking payphone calls and for paying compensation should be placed on the carrier that processes the completed call, *i.e.*, the facilities-based carrier maintaining a switching platform that processes the call originating at the payphone locations. In establishing the specifics of this obligation, the Commission (i) should take into account the varying size and technical resources of the facilities-based carrier; and (ii) should provide for a default or maximum rate that payphone providers would be allowed to recover from the IXC.

5. In transferring payphone investment out of regulation and removing it from access elements: (i) only paystation investment should be removed from regulation; (ii) no "interest rate" should be applied to asset transfers; (iii) regulated payphone service should be tariffed only at the state level; and (iv) removal of payphone investment from common line should result in adjustment to the common line PCI.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

RECEIVED
JUL 15 1996
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Implementation of the) CC Docket No. 96-128
Pay Telephone Reclassification)
and Compensation Provisions)
of the Telecommunications Act of 1996)

GTE's REPLY COMMENTS

GTE Service Corporation and its affiliated domestic telephone operating and long-distance companies ("GTE") hereby submit this reply to comments submitted in response to the Commission's Notice of Proposed Rulemaking, FCC 96-254 (released June 6, 1996) (the "*Notice*") in the above-captioned docket concerned with impact of the Telecommunications Act of 1996 (the "*1996 Act*"), particularly 47 U.S.C. Section 276¹ on payphones.

**I. THE COMMISSION SHOULD ADOPT A FAIR AND BALANCED
COMPENSATION PLAN BASED ON COMPETITIVE MARKET
CONSIDERATIONS.**

- 1. GTE supports the RBOC proposal that the FCC should employ market proxies to establish compensation levels for all toll calls, and the market should determine the rate at which payphone providers will be compensated for calls from their payphones.**

The comments submitted in response to the *Notice* reflect a divergent set of viewpoints regarding the proper implementation of the payphone provisions of the 1996 *Act* dependent upon each individual party's position within, or in relation to, the pay

¹ All references to sections are to 47 U.S.C. unless otherwise specified.

telephone telecommunications market. In general, Interexchange Carriers ("IXCs") seek to minimize their costs in compensating payphone owners for calls transiting their network; while private payphone owners support a fixed nationwide compensation rate that would in essence guarantee them a consistent revenue stream irrespective of changes in market demand or competition. As a result, suggested compensation amounts range from \$0.08 to as much as \$0.90 per originated call.

Certain IXCs wishing to minimize the amount of compensation they pay to payphone operators would have this Commission rely on cost models specifically designed to achieve that minimization. For example, MCI (at i) in arguing for a compensation level of \$0.08 relies on a 1995 TSLRIC study submitted by Hatfield and Associates. Similarly, AT&T (at iii-iv) suggests using a TSLRIC cost approach -- one that would require a determination of the forward-looking costs of an optimally efficient payphone operation. The deficiency of both of these approaches is they rely on a extremely theoretical view of what this segment of the telecommunications industry might resemble in a perfect world. Both approaches fail to reflect any aspect of the real market for payphone services, its cost structure or demand characteristics.

On the other hand, private payphone operators, represented by the American Public Communications Council ("APCC") (at i-ii), advocate the establishment of a single nationwide compensation rate based on the same rate that the Commission mandated in its decision regarding flat-rate compensation in 1992, or \$0.40. APCC contends that this amount could be as high as \$0.80 if local calls are not included. APCC (at ii) characterizes its approach as representing the "low end of the range of potentially fair rates based on market value surrogates."

Still others wish to side-step the Commission's proposed compensation plan altogether-- even though they benefit directly from the ability of subscribers to place calls using their network services from paystations. For example, Intellicall (at ii) would shift recovery of all payphone costs to an increase in the Subscriber Line Charge ("SLC") to be assessed on all business customers regardless of whether those customers actually benefit from the placement of a pay telephone on their property. This approach is inconsistent with the Act's explicit direction that Bell Operating Companies ("BOCs") must eliminate all payphone subsidies, since Intellicall's approach would simply take the existing subsidy and shift it to other ratepayers.

To achieve some balance of these competing interests; while promoting and encouraging competition within the payphone industry,² the best approach is, as suggested by CompTel (at 3), that "'fair compensation' should be determined by the market whenever possible and, only as a last resort, by FCC-prescribed compensation." Accordingly, GTE recommends the proposal advanced by the RBOC Coalition, which would achieve this reasonable and workable balance

The RBOCs (at i-v) suggest that the Commission use market proxies to establish compensation levels for all toll calls, including access code, subscriber 800, operator

² GTE's comments reflect its own divergent business interests. For example, GTE's telephone operations provide and maintain pay telephones across the country as well as providing intraLATA toll services to all subscribers within its serving areas. GTE affiliates also furnish interexchange long distance services, both within and outside of GTE's local telephone exchanges, as well as a variety of calling card services, including prepaid calling cards. GTE suggests it is crucial that the Commission craft workable rules in this proceeding, rules that (i) avoid favoring any one industry participant over another, (ii) minimize the costs of implementation, and (iii) properly compensate telecommunications providers for the services they furnish to the American public

service, and 1+ calls. GTE agrees that the market should best determine the rate at which payphone providers are compensated for calls made from their payphones.

Market-based commissions already exist for many 0+ operator service calls -- commissions that have been freely negotiated between many payphone providers and Operator Service Providers ("OSPs").³ Similar market-based compensation levels can be extended to other call types.

In the absence of a negotiated agreement, the Commission could establish a default, or maximum, rate that payphone owners would be allowed to recover from the IXC. This would be preferable to setting a mandatory nationwide rate for all providers since it would allow for the downward adjustment of rates based on market pressures and for initiative on the part of IXCs seeking to avoid paying the default level by having, or creating, the ability to block calls originating from specified payphone providers. This would mean facilities-based IXCs possessing this ability would be able to negotiate more favorable compensation rates; while IXCs not having this ability would be able to simply pay the default level. This flexibility built into the Commission's policies would promote the healthy "give and take" characteristic of competitive markets. It should effectively work within the payphone market to keep rate levels at reasonable and sustainable levels.

³ As CompTel (at 4) observes, market forces operate adequately with respect to 0+ interLATA calls and most 0- interLATA calls today.

2. Regulation of local coin rates should be eliminated -- if necessary, after a transition period that should not exceed two years.

Similarly, GTE agrees with those commenters that advocate the deregulation of local coin calls. This recommendation is supported by the favorable experience over a period of eleven years described by the Iowa Utilities Board (at 3), which deregulated the local coin rate in 1985, as well as by recommendations of the RBOC Coalition (at iv). Barriers to entry into the local payphone market are today a trivial factor. Ever-increasing numbers of independent payphone providers and intensified competition for payphone traffic will have the effect of limiting the amount that any one market participant can charge for local coin calls.

However, GTE recognizes that, because local coin rates have traditionally been set at below-cost levels, a transition to full deregulation of local coin calls may be necessary. The Commission should establish guidelines for state commissions to transition local coin rates to fully compensatory levels. GTE suggests that this transition should be accomplished within two years.

In summary: GTE urges the Commission to adopt a market-based approach to compensation levels for payphone calls. Rather than attempting to set compensation levels based on some measure of industry-wide cost the Commission should set a default or maximum rate of compensation -- which allows those carriers that have or can create the ability to block calls originating from specified payphone providers to negotiate a more favorable rate. Over time, rates set by competition are more likely to resemble the true costs of providing payphone services than those established by regulatory fiat. The market-based approach proposed by the RBOC Coalition is

consistent with the deregulatory and pro-competitive objectives of the 1996 Act and should be adopted by the Commission.

II. COMPENSATION SHOULD BE PAID BY THE CARRIER THAT PROCESSES THE COMPLETED CALL.

1. Compensation should apply only to completed calls.

The Commission's objective should be that payphone owners will receive per-call compensation for all calls originating from their payphones for which there is currently no compensation payable to payphone owners. Some payphone owners are compensated through commissions from OSPs for 1+, 0+ and revenue generating 0-calls; however, this is not the case for the BOCs and many independent Local Exchange Carriers ("LECs" or "exchange carriers") such as GTE. As the RBOC Coalition points out (at 4), many OSPs have executed long term contracts with location providers to be the presubscribed carrier on LEC payphones at those locations. Since the 1996 Act, Section 276(b)(3), grandfathers these contracts, LECs may be precluded from negotiating adequate compensation for these payphones. Therefore, the Commission should clarify that OSPs must pay compensation on all presubscribed calls originating from LEC payphones for which there is no negotiated compensation or commission agreement between the OSP and the exchange carrier.

As several commenters observe⁴, it is important that the Commission clarify that compensation applies only to calls that are *completed*, i.e., transmitted to the called party and billable. This follows from the reality that subscribers are not billed for, and carriers receive no revenue for, uncompleted calls.

⁴ MCI at 2, Sprint at 13.

2. The obligation to compensate payphone owners should fall on the carrier at whose call-processing platform the call is handled.

GTE disagrees with the RBOC Coalition's view (at 6) that, in all cases, the carrier that prices, bills for, and receives revenues for the call should be directly responsible for compensating the payphone provider. The obligation to compensate payphone owners should fall only on the carrier at whose call processing platform the call is handled. See APCC at 24. Resellers, for example, have no direct means of determining which of their calls originate from payphones. Debit card issuers, which typically use another carrier's 800 services, are similarly situated. *Under a carrier-pays scenario, it is the facilities-based carrier that should be responsible for paying compensation, and will then determine how to recoup this cost.*

In summary: The carrier that processes the completed call should be responsible for paying compensation.

III. THE BURDEN OF TRACKING AND ADMINISTERING PAYPHONE COMPENSATION SHOULD NOT FALL DISPROPORTIONATELY ON EXCHANGE CARRIERS.

As GTE stated in its comments, cost burdens of implementing a carrier-pays/per-call compensation plan can be minimized if implementation of such a plan builds on existing practices and procedures. Today, GTE provides ANI and billing address information on payphones to selected IXC's, partially through a central clearinghouse. Those IXC's are responsible for tracking calls from those payphones and remitting compensation to the payphone owner. With several modifications, these same procedures can be used to implement the compensation requirement mandated by the 1996 Act.

While exchange carriers, such as GTE, may now be required to develop mechanisms to track certain calls from payphones for compensation purposes, such as intraLATA toll traffic, they cannot be required to track the entire universe of payphone calls and provide call record details on all payphone calls to each IXC -- as MCI (at 8), CompTel (at 10), and Worldcom (at 14) propose. As Sprint observes (at 13), only the IXCs can be in a position to accurately track and identify all types of completed calls carried on their network. While an individual LEC may choose to offer certain tracking services to payphone owners, exchange carriers are not the appropriate parties on which to place the tracking/identifying responsibility; and it would be both unfair and unworkable to place disproportionate burdens on exchange carriers when so many other parties realize the benefit.

In summary: Facilities-based IXCs should be responsible for identifying and tracking payphone calls eligible for compensation

IV. PAYPHONE INVESTMENT SHOULD BE REMOVED FROM ACCESS ELEMENTS AND SHOULD RESULT IN AN EXOGENOUS ADJUSTMENT TO THE COMMON LINE PCI; REGULATED PAYPHONE SERVICE SHOULD BE TARIFFED AT THE STATE LEVEL.

- 1. Only paystation investment should be removed from regulation; and no "interest rate" should be applied to asset transfers.**

The majority of commenters support the Commission's tentative conclusion that only paystation investment should be removed from regulation. Transfer of LEC payphone investment should be at net book value. An additional "interest rate" should not be applied to such transfers, as the *Notice* proposes. As many commenters observe, the interest application is only used when a LEC has underforecasted the nonregulated usage of plant used jointly for both regulated and nonregulated services.

See Sprint at 27, RBOC Coalition at 28-29. In the case of transferring payphones assets, no "forecast" is applicable and the application of an interest component is not valid, nor is it supported by the record.

2. Regulated payphone service should be tarified only at the state level.

Access line and central office coin functionalities should remain as regulated services. Further, many parties (see RBOC Coalition at 25-26) agree with GTE's contention that regulated payphone services should be tarified only at the state level. Payphone lines will be similar in many respects to ordinary local business exchange service and should be tarified in a manner similar to the local services businesses obtain from the LEC.

3. Under the existing exogenous rules, removal of payphone investment from common line should result in adjustment to the common line PCI.

There is general agreement among commenting parties that removal of payphone investment from the common line category should result in an adjustment to the common line PCI in accordance with existing rules governing exogenous cost adjustments and that the SLC should apply to all payphone access lines, including those of the LEC.

No party has presented any compelling reason for assessing an additional charge to payphone access lines to reflect those situations in which the SLC calculation exceeds the mandated \$6 cap, as proposed in the *Notice*. To the extent there are subsidies that remain in the common line category, all customers will share in their recovery. It makes no sense to single out payphone providers and require them to pay full cost-based charges when all other customers pay the capped rate.

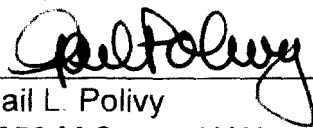
In summary: Only paystation investment should be removed from regulation; and no "interest rate" should be applied to asset transfers. Tariffing of regulated payphone service should be only at the state level. And removal of payphone investment from common line should result in an exogenous adjustment to the common line PCI.

Respectfully submitted,

GTE Service Corporation and its affiliated
domestic telephone operating and long
distance companies

Richard McKenna, HQE03J36
GTE Service Corporation
P.O. Box 152092
Irving, TX 75015-2092
(214) 718-6362

By



Gail L. Polivy
1850 M Street, N.W.
Suite 1200
Washington, DC 20036
(202) 463-5214

July 15, 1996

Their Attorneys

Certificate of Service

I, Ann D. Berkowitz, hereby certify that copies of the foregoing "GTE's Reply Comments" have been mailed by first class United States mail, postage prepaid, on July 15, 1996 to all parties of record.


Ann D. Berkowitz